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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/822,092

03/30/2001

Robert Case

13207.7USU2

9062

7590

04/11/2005

Tom Witty
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EXAMINER

GOTTSCHALK, MARTIN A

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,092

Applicant(s)

CASE, ROBERT

Examiner

Martin A. Gottschalk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 30 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 08/09/01&10/03/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-19 have been examined.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract is longer than 150 words.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-4; and 9-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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A. Claims 2 and 9 recite the limitation "...the lab test message processor..." in lines 3 and 7 of the respective claims. There is insufficient antecedent basis for this limitation in these claims. Claims 3-4 and 10-11 depend from claims 2 and 9 respectively, and are thus rejected for the same reason as given above.

B. As per claim 11, it depends from the "forwarding" step in claim 10. The recitation of claim 11 repeats the "receiving" step of claim 10, giving claim 11 three steps, namely two "receiving" steps (the first from claim 10, the second from claim 11) and a "sending" step. The receiving steps appear to be identical, and thus redundant.

C. As per claims 12 and 13, these claims refer to claim 1 in its entirety as opposed to specific steps within claim 1. The step of "receiving a test sample..." does not lend itself to the claimed reduction to computer-executable instructions on a computer-readable medium because it requires the manipulation of a physical entity (i.e. a test sample) versus the information recited in the other steps of claim 1.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaco (US Pat# 5,465,082; hereinafter Chaco).

A. As per claim 1, Chaco discloses a method for requesting and receiving medical patient test results (Chaco: col 8, ln 5-12; col 25, ln 65-67) using a remote data input terminal (Chaco: Fig. 3; Fig. 4, items 412, 414, 426, and 428) in communication with a server-based (Chaco: Fig. 4, item 430) lab test message computer (Chaco: Fig. 4, item 432), the method comprising:

receiving a test sample collected to perform the requested medical patient test with the patient identification information and the test identification information (Chaco: col 25, ln 47-67. The Examiner considers "...a sticker containing the patient's bar-code identification..." as being read on by patient and test identification information. The example used in the passage refers to a food tray, but in ln 65-67 it is pointed out that medical test results could be substituted in this scenario. It is noted that in order for a test result to be received, a test sample needs to first be collected. Furthermore, in col 16, ln 36-39, "...patient wrist bands, containers of prescription medicine, food trays, diagnostic images, and other material that is desirably associated with a particular patient..." are cited as possible physical objects that could contain patient-related information. The Examiner considers a medical test container, such as a VacutainerTM tube, to be a form of such "other material".);

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receiving the patient identification information and the test identification information from the remote data input terminal in order to request the medical patient tests to be performed upon the collected test sample (Chaco: col 6 In 10-18; col 13, In 63 to col 14 In 10. The Examiner considers ordering medical tests to be a form of the "various information" entered and transmitted.).

transmitting a test result message containing test results for the requested medical patient test to the remote data input terminal (Chaco: col 9, In 4-25, test result message reads on "...data, such as may be provided by an electrocardiogram, for example.", remote data input terminal reads on "central nurse station"); and

displaying the test results from the requested medical patient test on the remote data input terminal (Chaco: Figs. 3 and 4, item 322; col 13, In 24-25).

B. As per claim 2, Chaco discloses a method wherein the remote data input terminal comprises

a hand-held computer having a wireless communications interface for communicating with the lab test message processor (Chaco: Fig. 23; col 13, In 33-40, wireless reads on "IR"; col 15, In 25-26, hand-held reads on "portable"; Fig. 4, note the items labeled "IR Tranceiver", e.g. item 424, in communication with the server, item 430 and the central computer, item 432.)

C. As per claim 3, Chaco discloses a method wherein the remote data input terminal further comprises

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a bar code scanner for receiving data input (Chaco: col 13, ln 6-19, remote data input terminal reads on "patient station", bar code scanner reads on "light pen").

D. As per claim 4, Chaco discloses a method according to claim 3, wherein the remote data input terminal further comprises

a pen-based user input screen for accepting input from a user (Chaco: Fig. 23; col 13, ln 50-62).

E. As per claim 5, Chaco discloses a method wherein entering patient identification information comprises

scanning a patient bar code containing a unique patient ID (Chaco: col 11, ln 7-8; col 31, ln 37-38).

F. As per claim 6, Chaco discloses a method wherein

the patient bar code is located on a patient bracelet worn by the patient (Chaco: col 11, ln 7-24; Fig 1d).

G. As per claim 7, Chaco discloses a method wherein

the patient bar code is located on a patient chart (Chaco: col 25, ln 47-67. The passage discloses "...a sticker containing the patient's bar-code identification...". It is further recited in Chaco: col 16, ln 36-39, "...patient wrist bands, containers of prescription medicine, food trays, diagnostic images, and

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other material that is desirably associated with a particular patient..." which are cited as possible physical objects that could contain bar-codes with patient-related information. The Examiner considers a patient chart to be a form of such "other material").

H. As per claim 8, Chaco discloses a method wherein
the patient identification information and the test identification information
comprises

one or more bar codes (Chaco: col 11, ln 7-24; also col 25, ln 47-67,
where the Examiner considers "...a sticker containing the patient's bar-code
identification..." as being read on by patient and test identification information.
The example used in the passage refers to a food tray, but in ln 65-67 it is
pointed out that "medical test results" - read on by test identification information -
could be substituted in this scenario. Note also Figs. 1c item 132, and 1d item
142 which show bar codes on a medicine container and patient bracelet
respectively).

I. As per claim 9, Chaco discloses a method comprising
entering patient identification information for a medical patient test
requested to be performed into the remote data input terminal;
entering test identification information for identifying the medical patient
test requested be performed into the remote data input terminal; and

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transmitting the one or more recipient's identity to the lab test message processor for use when sending the test results to desired recipients (Chaco: col 13, ln 63 to col 14, ln 10. In addition to the patient information recited in the passage, the Examiner considers ordering medical tests – i.e. test identification information - to be a form of the information entered and transmitted.); and

identifying one or more recipients for the test result message (Chaco: col 9, ln 4-25, test result reads on "...data, such as may be provided by an electrocardiogram, for example." The Examiner considers "...the patient squeezes the bulb of the nurse call device..." to mean the patient has identified a nurse at the central nurse station to be the recipient of the message.).

J. As per claim 10, Chaco discloses

receiving the identity of one or more additional recipients for the test result message; and

forwarding the test result message to the one or more additional recipients (Chaco: col 9, ln 4-25, test result reads on "...data, such as may be provided by an electrocardiogram, for example." The Examiner considers "When the patient squeezes the bulb of the nurse call device, the patient station transmits selected information stored on the card..." to mean the patient has received the identity of the central nurse station as the recipient of the message, and forwarded the test result message to the recipient. Chaco: Fig. 14. The bi-directional arrows show that multiple nurses stations can be recipients of the message by transmitting the message via the server 430. Subsequently, as shown in Chaco: Fig 17c; col 12,

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In 41-50, the recipient identifies a second recipient, such as the patients physician of other caregiver, and locates those individuals and forwards the message to them).

K. As per claim 11, Chaco discloses a method wherein forwarding the test result message comprises:

receiving the identity of the one or more additional recipients to the lab test message processor; and

sending the test result message to the additional recipients (Chaco: col 9, ln 4-25, test result reads on "...data, such as may be provided by an electrocardiogram, for example." The Examiner considers "When the patient squeezes the bulb of the nurse call device, the patient station transmits selected information stored on the card..." to mean the patient has received the identity of the central nurse station as the recipient of the message, and forwarded the test result message to the recipient. Chaco: Fig. 14. The bi-directional arrows show that multiple nurses stations can be recipients of the message by transmitting the message via the server 430. Subsequently, as shown in Chaco: Fig 17c; col 12, In 41-50, the recipient identifies a second recipient, such as the patients physician of other caregiver, and locates those individuals and forwards the message to them). See the section above regarding 35 U.S.C. 112, second paragraph.

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L. As per claims 12 and 13, they are article of manufacture claims which repeat the same limitations of claim 1, the corresponding method claim, as a collection of computer-executable instructions stored on computer-readable media as opposed to a series of process steps. Since the teachings of Chaco disclose the underlying process steps that constitute the method of claim 1, it is respectfully submitted that they likewise disclose the executable instructions that perform the steps as well, since Chaco clearly discloses the use of computer hardware elements for storing and executing programming software (Chaco: col 14, ln 24-35). As such, the limitations of claims 12 and 13 are rejected for the same reasons given above for claim 1. See the section above regarding 35 U.S.C. 112, second paragraph.

M. As per claims 14-19, they are apparatus claims which repeat the same limitations contained within claims 1, 2, 4, 5, and 9, the corresponding method claims, as a collection of elements as opposed to a series of process steps. The particular correspondence is as follows:

claim 14 corresponds to claim 1 (except for the control processing module and internal database, see below);

claim 15 corresponds to claim 2;

claim 16 corresponds to claim 4;

claims 17 and 18 correspond to claim 5;

claim 19 corresponds to claim 9.

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Since the teachings of Chaco disclose the underlying process steps that constitute the methods of claims 1, 2, 4, 5, and 9, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 14-19 are rejected for the same reasons given above for claims 1, 2, 4, 5, and 9.

As per the recitation of a control processing module and internal database, note Chaco's central computer 432 and central database (Chaco: Fig. 4; col 26, ln 46-57; and col 14, ln 1-10).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not relied upon patents disclose medical records systems utilizing wireless communication, pen-based data entry (US Pat# 5,924,074) and bar-code scanning (US Pat# 5,924,074). The cited but not relied upon non-patent literature (Cross; Kincade) disclose use of wireless communication systems in health-care environments.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin A. Gottschalk whose telephone number is 703-305-5356. The examiner can normally be reached on Mon - Fri 8:30 - 5.

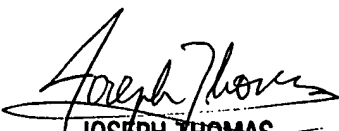
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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03/29/2005



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